

§ 270.4

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(iv) The sound recording title;
(v) The International Standard Recording Code (ISRC) or, alternatively to the ISRC, the

- (A) Album title; and
- (B) Marketing label;

(vi) The actual total performances of the sound recording during the reporting period or, alternatively, the

- (A) Aggregate Tuning Hours;
- (B) Channel or program name; and
- (C) Play frequency.

(3) *Reporting period.* A Report of Use shall be prepared for a two-week period (two periods of 7 consecutive days) for each calendar quarter of the year. The two weeks need not be consecutive, but both weeks must be completely within the calendar quarter.

(4) *Signature.* Reports of Use shall include a signed statement by the appropriate officer or representative of the service attesting, under penalty of perjury, that the information contained in the Report is believed to be accurate and is maintained by the service in its ordinary course of business. The signature shall be accompanied by the printed or typewritten name and the title of the person signing the Report, and by the date of the signature.

(5) *Confidentiality.* Copyright owners, their agents and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, without consent of the service providing the Report of Use.

(6) *Documentation.* A Service shall, for a period of at least three years from the date of service or posting of a Report of Use, keep and retain a copy of the Report of Use.

§ 270.4 Reports of use of sound recordings under statutory license prior to April 1, 2004.

(a) *General.* This section prescribes the rules which govern reports of use of sound recordings by nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services, and business establishment services under section 112(e) or section 114(d)(2) of title 17 of the United States Code, or both, for the period from October 28, 1998, through March 31, 2004.

(b) *Reports of use.* Reports of use filed by preexisting subscription services for transmissions made under 17 U.S.C. 114(f) pursuant to §270.2 for use of sound recordings under section 112(e) or section 114(d)(2) of title 17 of the United States Code, or both, for the period October 28, 1998, through March 31, 2004, shall serve as the reports of use for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services, and business establishment services for their use of sound recordings under section 112(e) or section 114(d)(2) of title 17 of the United States Code, or both, for the period from October 28, 1998, through March 31, 2004.

(c) *Royalty Logic Inc.* If, in accordance with §261.4(c), any Copyright Owners or Performers have provided timely notice to SoundExchange of an election to receive royalties from Royalty Logic, Inc. as a Designated Agent for the period October 28, 1998, through December 31, 2002, or any portion thereof, SoundExchange shall provide to RLI copies of the Reports of Use described in paragraph (b) of this section for that period or the applicable portion thereof.

[69 FR 58262, Sept. 30, 2004]

§ 270.5 Designated collection and distribution organizations for records of use of sound recordings under statutory license.

(a) *General.* This section prescribes rules under which records of use shall be collected and distributed under section 114(f) of title 17 of the United States Code, and under which records of such use shall be kept and made available.

(b) *Definitions.* (1) A *Collective* is a collection and distribution organization that is designated under the statutory license, either by settlement agreement reached under section 114(f)(1)(A) or section 114(f)(1)(C)(i) and adopted pursuant to 37 CFR 251.63(b), or by decision of a Copyright Arbitration Royalty Panel (CARP) under section 114(f)(1)(B) or section 114(f)(1)(C)(ii), or by an order of the Librarian pursuant to 17 U.S.C. 802(f).

(2) A *Service* is an entity engaged in the digital transmission of sound recordings pursuant to section 114(f) of title 17 of the United States Code.

(c) *Notice of Designation as Collective under Statutory License.* A Collective shall file with the Licensing Division of the Copyright Office and post and make available online a “Notice of Designation as Collective under Statutory License,” which shall be identified as such by prominent caption or heading, and shall contain the following information:

(1) The Collective name, address, telephone number and facsimile number;

(2) A statement that the Collective has been designated for collection and distribution of performance royalties under statutory license for digital transmission of sound recordings; and

(3) Information on how to gain access to the online website or home page of the Collective, where information may be posted under this part concerning the use of sound recordings under statutory license. The address of the Licensing Division is: Library of Congress, Copyright Office, Licensing Division, 101 Independence Avenue, SE., Washington, DC 20557-6400.

(d) *Annual Report.* The Collective will post and make available online, for the duration of one year, an Annual Report on how the Collective operates, how royalties are collected and distributed, and what the Collective spent that fiscal year on administrative expenses.

(e) *Inspection of Reports of Use by copyright owners.* The Collective shall make copies of the Reports of Use for the preceding three years available for inspection by any sound recording copyright owner, without charge, dur-

ing normal office hours upon reasonable notice. The Collective shall predicate inspection of Reports of Use upon information relating to identity, location and status as a sound recording copyright owner, and the copyright owner's written agreement not to utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the Service providing the Report of Use. The Collective shall render its best efforts to locate copyright owners in order to make available records of use, and such efforts shall include searches in Copyright Office public records and published directories of sound recording copyright owners.

(f) *Confidentiality.* Copyright owners, their agents, and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the Service providing the Report of Use.

(g) *Termination and dissolution.* If a Collective terminates its collection and distribution operations prior to the close of its term of designation, the Collective shall notify the Copyright Office, and all Services transmitting sound recordings under statutory license, by certified or registered mail. The dissolving Collective shall provide each such Service with information identifying the copyright owners it has served.

[69 FR 11527, Mar. 11, 2004, Redesignated at 69 FR 58262, Sept. 30, 2004]

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¹CARP is the acronym for Copyright Arbitration Royalty Panel.

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² But *see* 17 U.S.C. 121 (reproduction for blind or other people with disabilities), added by the Act of September 16, 1996, Pub. L. 104–197, 110 Stat. 2394, 2416.

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³NAFTA is the acronym for North American Free Trade Agreement.

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